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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,237	09/16/2003	Robert G. Dandrea	DIVA/144CIPIC1	3754
26291	7590	07/07/2005	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			DOAN, DUC T	
		ART UNIT	PAPER NUMBER	
			2188	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/663,237	DANDREA ET AL.
Examiner	Art Unit	
Duc T. Doan	2188	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 June 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-6 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/24/04 9/16/03.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## DETAILED ACTION

### *Status of Claims*

Claims 1-6 are in the application.

Claims 1-6 are rejected.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 rejected under 35 U.S.C. 103(a) as being unpatentable over Yao et al (US 6021464) and further in view of Demoney (US 6721789).

As for claim 1, Yao describes a method of accessing data in a disk array comprising: receiving a new user access request; assigning the new user access request to a disk d of said disk

array (Yao's column 2, lines 11-23); determining when the new user access request will be processed by examining extent size for requested data stored on disk d (Yao's column 3 lines 60 to column 4, lines 2), wherein if the new user access request will be processed within a predefined period of time, placing the new user access request into a new user queue for disk d (Yao's column 5, lines 10-123); otherwise, assigning the new user access request to another disk of said disk array (Yao's column 5, lines 23-28). Yao does not describe the disk array aspect of the claim. However, Demoney describes such a system (Demoney's column 2, lines 23-26). It would have been obvious to one of ordinary skill in the art at the time of invention to include disk array storage as suggested by Demoney in Yao's system to increase storage and bandwidth for simultaneous users of a multimedia server (Demoney's column 2, lines 15-24).

As for claim 2, the claim recites wherein said another disk is up to three disks distant from disk d. Yao describes of selecting the "another disk" as a device Dt of a group of an arbitrary number of disks (Yao's column 5, lines 18-25). The "another disk" can be one, two, or three disks away from the originally selected disk.

Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Yao et al (US 6021464), Demoney (US 6721789) as applied to claim 1, and further in view of Vaitzblit et al (US 5528513).

As for claim 3, the claim recites wherein, if said new user access request cannot be assigned to another disk, waiting a predefined period of time; and assigning the new user access

request to disk d. Yao describes a procedure to scan disks to select an “another disk”; if all disks are busy, the procedure scans back to the original disk (Fig 2, column 4, line 40-60; column 5, lines 18-28). Yao does not describe of a predefined period of time. However Vaitzblit describes a scheduler where tasks are grouped into classes. Vaitzblit describes each task is guaranteed with a minimum time slot (Vaitzblit’s column 3, lines 27-43), therefore it takes a minimum amount of time for a task to become not busy. It would have been obvious to one of ordinary skill in the art at the time of invention to include the scheduler as suggested by Vaitzblit in Yao’s system to guarantee a minimum CPU processing quantum for tasks in the general purpose class (Vaitzblit’s column 3, lines 32-38).

As for claim 4, it is rejected based on the same rationale as in claim 1.

As for claim 5, it is rejected based on the same rationale as in claim 2.

As for claim 6, it is rejected based on the same rationale as in claim 3.

### *Conclusion*

When responding to the office action, Applicant is advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist examiner to locate the appropriate paragraphs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Doan whose telephone number is 571-272-4171. The examiner can normally be reached on M-F 8:00 AM 05:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 571-272-4210. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin L. Ellis  
Primary Examiner  
*Kevin L. Ellis*